

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

SOCIETY OF THE HOLY TRANSFIGURATION
MONASTERY, INCORPORATED,

Plaintiff,

Case No. 2:06-cv-10291

v.

Hon. George Caram Steeh

SHERIDAN BOOKS, INC. and
ARCHBISHOP GREGORY OF DENVER, CO,

Magistrate Judge R. Steven Whalen

Defendants.

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**ANSWER, NOTICE OF AFFIRMATIVE DEFENSES,
RELiance ON JURY DEMAND AND CROSS-CLAIM
OF DEFENDANT SHERIDAN BOOKS, INC.**

NOW COMES Defendant Sheridan Books, Inc., only, by its attorneys, Conlin, McKenney & Philbrick, P.C., and in Answer to the Amended Complaint, paragraph by paragraph, states as follows:

PARTIES

1. The allegations in Paragraph 1 are neither admitted nor denied, as Defendant Sheridan is without knowledge or information sufficient to form a belief as to the truth thereof, and so leaves Plaintiff to its proofs.

2. The allegations in Paragraph 2 are admitted.

3. The allegations in Paragraph 3 are admitted, on information and belief, with respect to the residency of Defendant/Cross-Defendant Archbishop Gregory of Buena Vista, Colorado. The allegations with respect to Archbishop Gregory's former association with the Plaintiff Monastery are neither admitted nor denied, as Sheridan is without knowledge or information sufficient to form a belief as to the truth thereof.

JURISDICTION AND VENUE

4. The allegations in Paragraph 4 are admitted.

5. The allegations in Paragraph 5 are denied as untrue. The Dormition Skete contracted with Sheridan for the printing of the book in question, through the former's president and agent, Defendant Archbishop Gregory, who personally guaranteed performance of the agreement.

6. The allegations in Paragraph 6 are admitted.

7. The allegations in Paragraph 7 are admitted.

FACTUAL ALLEGATIONS

8. The allegations in Paragraph 8 are neither admitted nor denied, as Defendant Sheridan is without knowledge or information sufficient to form a belief as to the truth thereof, and so leaves Plaintiff to its proofs.

9. The allegations in Paragraph 9 are neither admitted nor denied, as Defendant Sheridan

is without knowledge or information sufficient to form a belief as to the truth thereof, and so leaves Plaintiff to its proofs.

10. The allegations in Paragraph 10 are neither admitted nor denied, as Defendant Sheridan is without knowledge or information sufficient to form a belief as to the truth thereof, and so leaves Plaintiff to its proofs.

11. The allegations in Paragraph 11 are neither admitted nor denied, as Defendant Sheridan is without knowledge or information sufficient to form a belief as to the truth thereof, and so leaves Plaintiff to its proofs.

12. The allegations in Paragraph 12 are admitted insofar as a copy of a registration exhibit has been attached to the Complaint dated October 11, 2005 in favor of the Plaintiff, for a differently titled work, "The Life of Saint Andrew, the Fool for Christ of Constantinople."

13. The allegations in Paragraph 13 are neither admitted nor denied, as Defendant Sheridan is without knowledge or information sufficient to form a belief as to the truth thereof, and so leaves Plaintiff to its proofs.

14. The allegations in Paragraph 14 are neither admitted nor denied, as Defendant Sheridan is without knowledge or information sufficient to form a belief as to the truth thereof, and so leaves Plaintiff to its proofs.

15. The allegations in Paragraph 15 are neither admitted nor denied, as Sheridan is without knowledge or information sufficient to form a belief as to the truth of when members of Plaintiff's order discovered the publication of the work in question.

16. The allegations in Paragraph 16 are neither admitted nor denied, as Defendant Sheridan is without knowledge or information sufficient to form a belief as to the truth thereof, and

so leaves Plaintiff to its proofs.

17. The allegations in Paragraph 17 are neither admitted nor denied, as Defendant Sheridan is without knowledge or information sufficient to form a belief as to the truth thereof, and so leaves Plaintiff to its proofs.

18. The allegations in Paragraph 18 are admitted insofar as the Co-Defendant, on behalf of the Dormition Skete, contracted with Sheridan to print a book entitled “St. Andrew, the Fool for Christ’s Sake,” which was shipped to the Dormition Skete on or about September 6, 2005. Sheridan denies as untrue any knowledge on its part that the book in question was “unauthorized” for printing as alleged by Plaintiff in this paragraph, and so leaves Plaintiff to its proofs concerning said allegation.

COPYRIGHT INFRINGEMENT - ALL DEFENDANTS

19. Defendant Sheridan hereby repeats and reaffirms and incorporates by reference its answers to Paragraphs 1-18, above, as if fully set forth herein.

20. The allegations in Paragraph 20 are neither admitted nor denied, as Defendant Sheridan is without knowledge or information sufficient to form a belief as to the truth thereof, and so leaves Plaintiff to its proofs.

21. The allegations in Paragraph 21 are admitted insofar as a copy of a registration appears as an exhibit to the Complaint, dated October 11, 2005. The allegations with respect to relinquishment of ownership rights is neither admitted nor denied by Sheridan, being without knowledge or information sufficient to form a belief as to the truth thereof, and so leaves Plaintiff to its proofs concerning said allegation.

22. The allegations in Paragraph 22 are neither admitted nor denied, as Defendant

Sheridan is without knowledge or information sufficient to form a belief as to the truth thereof, and so leaves Plaintiff to its proofs.

23. The allegations in Paragraph 23 are admitted insofar as the Co-Defendant, on behalf of the Dormition Skete, contracted with Sheridan to print a book entitled “St. Andrew, the Fool for Christ’s Sake,” which was shipped to the Dormition Skete on or about September 6, 2005. Sheridan denies as untrue any knowledge on its part that the book in question was “unauthorized” for printing as alleged by Plaintiff in this paragraph, and so leaves Plaintiff to its proofs concerning said allegation.

24. The allegations in Paragraph 24 are neither admitted nor denied, as Defendant Sheridan is without knowledge or information sufficient to form a belief as to the truth thereof, and so leaves Plaintiff to its proofs.

25. The allegations in Paragraph 25 are denied, on information and belief.

26. The allegations in Paragraph 26 are neither admitted nor denied, as Defendant Sheridan is without knowledge or information sufficient to form a belief as to the truth thereof, and so leaves Plaintiff to its proofs.

WHEREFORE, Defendant Sheridan Books, Inc. prays that this Court enter Judgment of no cause of action in its favor on the Amended Complaint against Plaintiff, and award Sheridan its costs, attorneys fees, plus such other and further relief as this Court deems just.

NOTICE OF AFFIRMATIVE DEFENSES

NOW COMES Defendant Sheridan Books, Inc., by its attorneys, Conlin, McKenney & Philbrick, P.C., and in further response to Plaintiff’s Amended Complaint sets forth the following Affirmative Defenses:

1. The printing of “St. Andrew, the Fool for Christ’s Sake,” by Sheridan for the Co-Defendant, the latter as agent for the Dormition Skete, was without notice or knowledge on the part of Sheridan of the existence of an alleged substantially similar work held by the Plaintiff or any other third party, if any; and, Sheridan at all times acted in the good faith belief its customer owned the work being printed.

2. Any infringement of Plaintiff’s copyright was solely through the intentional or negligent acts and omissions of the Co-Defendant, or other third parties, and not Sheridan Books.

3. Under 17 U.S.C. §412, Sheridan is not liable for statutory damages or attorneys fees to the Plaintiff should Plaintiff prevail and infringement be established, as the printing and shipment of the book, “St. Andrew, the Fool for Christ’s Sake,” by Sheridan for and to the Co-Defendant and his principal was completed before Plaintiff had either published or registered a copyright for its claimed work.

4. The Plaintiff has suffered no actual damages as a result of the alleged infringement by Sheridan.

5. Sheridan has received no profits from the printing of the books, “St. Andrew, the Fool for Christ’s Sake,” as its deductible expenses from the printing exceeded the modest gross revenues paid to Sheridan by the Co-Defendant and his principal for printing of the book.

6. Sheridan is entitled to express contractual indemnity from the Co-Defendant for any and all liability and costs Sheridan incurs in the defense of Plaintiff’s claim.

7. Defendant Sheridan Books, Inc. hereby reserves the right to state additional affirmative defenses to the Amended Complaint as may be revealed during the course of any discovery conducted in this action.

WHEREFORE, Defendant Sheridan Books, Inc. prays that this Court enter Judgment of no cause of action in its favor on the Amended Complaint against Plaintiff, and award Sheridan its costs, attorneys fees, plus such other and further relief as this Court deems just.

RELIANCE ON JURY DEMAND

NOW COMES Sheridan Books, Inc., and hereby gives notice of reliance upon the jury demand heretofore filed by Plaintiff in said cause.

By: s/ Bradley J. McLampy
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Dated: May 16, 2006

CROSS-CLAIM

NOW COMES Defendant/Cross-Plaintiff Sheridan Books, Inc., by its attorneys, Conlin, McKenney & Philbrick, P.C., and for its Cross-Claim against Defendant/Cross-Defendant Archbishop Gregory of Denver, Colorado, an individual, states as follows:

GENERAL ALLEGATIONS

1. Defendant/Cross-Plaintiff Sheridan Books, Inc. is a Michigan corporation with offices located in the County of Washtenaw, State of Michigan.
2. Defendant/Cross-Defendant Archbishop Gregory of Denver, Colorado is a resident of Buena Vista, Colorado, and acted on his own behalf and as president and agent for the Dormition Skete during the time period relevant to this Cross-Claim.

3. The jurisdiction and venue of this Court are founded upon Archbishop Gregory conducting business in the State of Michigan, County of Washtenaw, venue being appropriate on same grounds; and, this Court having jurisdiction over this pendent Cross-Claim under 28 U.S.C. §1338(a) and 17 U.S.C. §301(a).

4. Cross-Defendant Archbishop Gregory, for himself and on behalf of the Dormition Skete as the latter's authorized agent, entered into a contract with Sheridan for a limited-run printing of a book ultimately entitled, "St. Andrew, the Fool for Christ's Sake," pursuant to a signed Agreement dated June 16, 2005, and Personal Guarantee dated February 26, 2005. The Agreement and Personal Guarantee are both attached and incorporated hereby as **Exhibit 1**.

5. Original Plaintiff Society of the Holy Transfiguration Monastery, Incorporated alleges in its Amended Complaint copyright infringement by the publication and printing of the book by Archbishop Gregory and the Dormition Skete, through Sheridan as the book printer, to the Plaintiff's loss and damages.

6. If any copyright infringement in the printed work in question is established, it is due solely to the acts and omissions of the Cross-Defendant Archbishop Gregory on his own behalf, and on behalf of the Dormition Skete.

CLAIM FOR EXPRESS CONTRACTUAL INDEMNITY

7. Under the parties' printing Agreement and Personal Guarantee, Archbishop Gregory and/or the Dormition Skete are obligated to defend, indemnify and hold harmless Sheridan Books from all claims, causes of action and judgment for copyright infringement brought by the original Plaintiff in this action, under Paragraph 17 of the parties' Terms of Sale, **Exhibit 1**.

8. Under the parties' express contractual indemnity above, Sheridan is entitled to recover

its attorneys fees, costs and any liability imposed by way of settlement, order or judgment, if any, on the claims set forth in the Amended Complaint.

WHEREFORE, Defendant/Cross-Plaintiff Sheridan Books, Inc. prays for entry of Judgment in its favor against Defendant/Cross-Defendant Archbishop Gregory for indemnification for any and all amounts Sheridan is found liable to the original Plaintiff, if any, including all costs and attorneys fees incurred in the defense of the Amended Complaint by Sheridan, plus such other and further relief as this Court deems just.

JURY DEMAND

NOW COMES Cross-Plaintiff Sheridan Books, Inc., and hereby demands trial by jury of the above-entitled cause.

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Dated: May 16, 2006

CERTIFICATE OF SERVICE

I hereby certify that on May 16, 2006, I electronically filed the foregoing document with the Clerk of the Court using the ECF system which will send notification of such filing to: Kathleen A. Lang, Esq. and I hereby certify that I have mailed by United States Postal Service the document to the following non-ECF participants:

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